

### REMARKS

Claims 1, 3-7, 9, 10 and 12 are presented for consideration, with Claims 1, 6 and 9 being independent.

Claims 1, 4, 6, 7, 9 and 12 stand rejected under 35 U.S.C. §103 as allegedly being obvious over Fuss '004 in view of Hamilton '882. In addition, Claims 3, 5 and 10 stand rejected as allegedly being obvious over Fuss in view of Gladson '270 (Claims 3 and 10) or in view of Aldridge '098 (Claim 5). These rejections are respectfully traversed.

Claim 1 of Applicant's invention relates to a tree-top mounting device comprised of an elongated housing, an elongated support slidably received within the elongated housing, and a fitting head disposed at a distal end of the elongated support. A fastener is adapted to secure the elongated housing to a tree, and a lock secures the sliding support in the elongated housing at a desired position. As claimed, Claim 1 sets forth that the housing is capable of housing substantially at least half of the elongated support.

Claim 6 relates to a tree-top mounting device that includes a mounting with an elongated housing and a sliding rod slidable within the elongated housing, and a fastener adapted to attach the elongated housing to a tree. In addition, a locking mechanism locks the sliding rod in the elongated housing, which is capable of housing substantially at least half of the sliding rod.

Finally, Claim 9 relates to a tree-top mounting device that includes telescoping means comprising an elongated first member slidably received in an elongated second member, and means for connecting the first member to an object. In addition, means for locking the first member and a second member together is provided, and the second member is capable of housing substantially at least half of the first member.

As previously discussed, the patent to Fuss relates to a Christmas tree ornament for attachment to a conventional Christmas tree. As shown in Figure 2, the ornament includes a telescoping rod 18 and a tubular member, or housing, 24. A spring clamp 22 secures the rod to the tree, and a clamp 26 secures the housing to the tree.

The Office Action acknowledges that Fuss does not show means for locking the sliding rod within the housing, and cites the Hamilton patent to compensate for this deficiency. The patent to Hamilton relates to a device for exhibiting advertisements. As illustrated, a telescoping rod A fits within a housing C, and a thumb-screw C' allows the housing to be raised or lowered and secured to the rod A.

The Office Action asserts that it would have been obvious to one of ordinary skill in the art to provide a fastener to the sliding rod and housing connection of Fuss for fixing the sliding rod within the housing during adjustment as taught by Hamilton. The Office Action further states that it is notoriously old and well known to provide a locking mechanism for telescoping rods in a variety of uses to secure the length or fixed movement of the telescoping rods for adjustment purposes. In response to these assertions, Applicant respectfully submits that the Fuss patent includes a clamp 26 on the housing and a clamp 22 on the telescoping rod. The clamp 22 serves the same purpose as a thumb-screw, i.e., to secure the length and fix movement of the rod. It would not have been obvious, therefore, to include a thumb-screw in the Fuss device because the clamp 22 already serves this purpose. Thus, regardless of the fact that telescoping rods, per se, are known to be secured and fixed in positions by a thumb-screw, the Christmas tree ornament in Fuss has absolutely no need for a thumb-screw, and providing such would be counter-intuitive, adding unnecessary costs and weight to the ornament. Moreover,

replacing the clamp 22 with the thumb-screw would create an unbalanced ornament since it would be secured to the tree only with clamp 26.

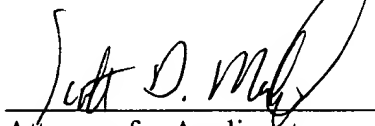
Accordingly, it is respectfully submitted that only through impermissible hindsight would one skilled in the art have modified Fuss in view of Hamilton in the manner asserted in the Office Action. Therefore, reconsideration and withdrawal of the rejection of Claims 1, 4, 6, 7, 9 and 12 under 35 U.S.C. §103 is respectfully requested.

The tertiary citation to Gladson relates to a mounted light and was cited for its teaching of a bayonet coupling attachment. The Aldridge patent relates to a mounting assembly and was cited for its teaching of a hook and loop fastener. These citations, however, fail to compensate for the deficiencies in the proposed combination of Fuss and Hamilton as discussed above. Therefore, without conceding the propriety of modifying Fuss in view of either Gladson or Aldridge in the manner proposed in the Office Action, such combinations still fail to teach or suggest Applicant's claimed invention. Reconsideration and withdrawal of the rejections of Claim 3, 5 and 10 are thus also requested.

Accordingly, it is submitted that Applicant's invention as set forth in independent Claims 1, 6 and 9 is patentable over the cited art. Additionally, dependent Claims 3-5, 7, 10 and 12 set forth additional features of Applicant's invention. Independent consideration of the dependent claims is respectfully requested.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Scott D. Malpede", is written over a horizontal line.

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